



IRA A. JACKSON  
COMMISSIONER

*The Commonwealth of Massachusetts*  
*Department of Revenue*  
*Leverett Saltonstall Building*  
*100 Cambridge Street, Boston 02204*

September 19, 1984

You are the chairman of the board of trustees of the ("Condominium"), a time sharing condominium, which is a member resort of Each of the Condominium's furnished units are owned for 30 one-week intervals from April through November. During the remaining 22 weeks of each year the units are unoccupied and general maintenance is done.

Each one week interval has its own recorded deed and the owner of each interval pays real estate taxes. Each unit owner may rent out his interval personally, or through a real estate agent or the resort's exclusive rental agent. Interval owners may participate in unit exchanges with other member resorts. You state that there is no rental pool arrangement; unit owners receive rental income only when their interval is rented. Rental rates are set by each unit owner. You state that maid and linen service is not provided. You inquire whether a room occupancy excise must be collected each time a unit is rented from an interval owner.

An excise is imposed upon the transfer of occupancy of any room or rooms in a hotel, lodging house, or motel in Massachusetts by any operator. Such operator is required to pay the excise to the Commissioner when filing room occupancy returns. (G.L. c. 64G, § 3).

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An operator is defined as "any person operating a hotel, lodging house or motel in the commonwealth, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or lodging house." (G.L. c. 64G, § 1(d)).

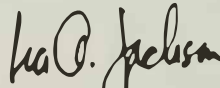
Section 1(c) of General Laws Chapter 64G defines a motel as:

any building or portion of a building, other than a hotel or lodging house, in which persons are lodged for hire with or without meals and which is licensed or required to be licensed under the provisions of section thirty-two B of chapter one hundred and forty, or a private club.

For purposes of Section 32B of Chapter 140, dealing with licensing by a local board of health, a motel is defined as "any building or group of buildings which provide sleeping accommodations for transient motorists and which is not licensed as an inn." (G.L. c. 140, § 32A).

A room occupancy excise is not required to be collected each time a unit of the Condominium is rented from an interval owner. The Condominium does not possess the characteristics of a motel, as defined in Chapters 64G and 140 of our General Laws. The Condominium does not provide the services normally associated with a hotel or motel, such as maid service or linen service. The Condominium does not establish room rates; rather, rental prices for each unit are set by each interval owner. The Condominium does not have an operator, as defined in General Laws Chapter 64G, Section 1, to transfer occupancy of the units, to collect a room occupancy excise each time a unit is rented, and to pay the excise to the Commissioner.

Very truly yours,



Commissioner of Revenue

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